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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR CENTRAL DISTRICT OF CALIFORNIA**

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12 JUNE LYNCH, Plaintiff,
13 vs.
14 ACCESS SERVICES, INC.;
15 GLOBAL PARATRANSIT, INC.;
16 and DOES 1 through 25, inclusive,
17 Defendants.

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CASE NO:

COMPLAINT FOR DAMAGES

1. **DECLARATORY RELIEF**
2. **TITLE II, AMERICANS WITH DISABILITY ACT**
3. **SECTION 504 OF THE REHABILITATION ACT OF 1973**
4. **TITLE VI OF THE CIVIL RIGHTS ACT OF 1963**
5. **42 U.S.C. §1983 VIOLATION OF EQUAL PROTECTION UNDER 14TH AMENDMENT**
6. **TITLE II [LOCAL GOVERNMENT] AMERICANS WITH DISABILITY ACT**
7. **INJUNCTIVE RELIEF**

COMES NOW the Plaintiff, JUNE LYNCH, and alleges as follows:

JURISDICTION AND VENUE

1 which gives district courts jurisdiction over all civil actions arising under the Constitution and
2 laws and treaties of the United States and 28 U.S.C. § 1333(a) for actions under laws providing
3 for the protection of civil rights; and (b) any civil action to recover damages or to secure
4 equitable relief under any Act of Congress providing for the protection of civil rights. .

5 2. This court is the proper venue for this cause of action pursuant to 28 U.S.C. §1333
6 (b)(1) and (b)(2).

7 3. This court also has subject matter jurisdiction pursuant to 28 U.S.C. §1333 which
8 gives district courts original jurisdiction over (a) any civil action authorized by law to be brought
9 by any persons to redress the deprivations under color of state law, statute, ordinance, regulation,
10 custom and usage, or any right, privilege or immunity secured by the Constitution of the United
11 States or by an act of Congress providing for equal right of citizens or of all persons within the
12 jurisdiction of the United States; and (b) any civil action to recover damages or to secure
13 equitable relief under any Act of Congress providing for the protection of the civil rights.

14 4. This is a civil action which seeks damages and injunctive relief under 42 U.S.C.
15 §1983 against Defendants for committing acts, under color of law with the intent and for the
16 purpose of depriving Plaintiff of rights secured under the Constitution and laws of the United
17 States. Additionally Plaintiff seek attorney fees as provided under 42 U.S.C. §1988.

18 5. The declaratory and injunctive relief sought is authorized by 28 U.S.C. §§2201 and
19 2202, 42 U.S.C. §1983, Rule 57 of the Federal Rules of Civil Procedure and 42 U.S.C. §12133
20 and 29 U.S.C. §794a.

21 6. Additionally, this action is brought pursuant to Title II of the Americans with
22 Disabilities Act, 42 U.S.C. §12131 *et seq.*, and regulations promulgated thereunder; Section 504
23 of the Rehabilitation Act of 1973, 29 U.S.C. §794 *et seq.*, and regulations promulgated
24 thereunder; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and regulations
25 promulgated thereunder and California law under Civil Codes §§2100 and 2168.

26 7. This action is also brought pursuant to Title III of Americans with Disabilities

1 Act, 42 U.S.C. §12131 *et seq.*, and regulations promulgated thereunder; Section 504 of the
2 Rehabilitation Act of 1973, 29 U.S.C. §794 *et seq.*, and regulations promulgated thereunder.

3 8. This action seeks relief under Title VI of the Civil Right act of 1964 over which
4 this court has jurisdiction; 42 U.S.C. §2000d *et seq.*

5 9. This is also an action to redress deprivation of Plaintiff's constitutional rights
6 under the Fourteenth Amendment of the United States Constitution pursuant to 42 U.S.C. § 1983
7 to wit, equal protection.

8 10. This Court has supplemental jurisdiction over all other claims that are so related
9 to claims in this action that are within such original jurisdiction that they form part of the same
10 controversy under Article III of the United States Constitution pursuant to 28 U.S.C. §1337.

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12 **THE PARTIES**

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14 11. Plaintiff, June Lynch ("LYNCH"), is a black, female, age 71, born in Trinidad with
15 a disability who at all time relevant was a resident of the County of Los Angeles, State of
16 California

17 12. At all times relevant she used public transportation provided by the Defendant
18 Access Services ("ACCESS").

19 13. ACCESS is a government entity which operates as a Consolidated Transportation
20 Service Agency ("CTSA") and provides paratransit service to the disabled and elderly in the
21 greater Los Angeles area as mandated by state and federal law.

22 14. Defendant, Global Paratransit, Inc. ("GPI") provides, under a written contract,
23 various services including drivers and the Vans that ACCESS uses and was using when the
24 Plaintiff, LYNCH, was injured on or about November 4, 2014.

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APPLICABLE LAW AND POLICY

3 15. Under 42 U.S.C. §12143(a) the ADA requires, for the disabled, a “comparable”
4 level of service to those not disabled using public transportation; the ADA is intended to provide
5 to individuals with disabilities the same mass transportation service opportunities everyone else
6 gets. Plaintiff alleges that she is protected by the common carrier duties of highest care when
7 riding paratransit services provided by ACCESS.

8 16. The ADA requires the Los Angeles County Metropolitan Transportation Authority
9 ("MTA") to provide a complementary paratransit service for people who are elderly or with
10 disabilities that is comparable to the fixed route system. 42 U.S.C. §12143(a); 49 C.F.R.
11 §37.121(a).

12 17. In order to meet the ADA's requirement that the paratransit system be
13 "comparable" to the fixed route system, MTA authorizes ACCESS and GPI (and others) to
14 operate the paratransit system throughout the County of Los Angeles provided that Defendants
15 "shall not limit the availability of complementary paratransit service to ADA paratransit eligible
16 individuals by . . . [a]ny operational pattern or practice that significantly limits the availability
17 of service to ADA paratransit eligible persons." 49 C.F.R. §37.131(f).

18 18. 42 U.S.C. §12101 provides that the ADA shall be construed broadly in order to
19 effectively implement the ADA's fundamental purpose of providing a clear and comprehensive
20 national mandate for the elimination of discrimination against individuals with disabilities.

19. A violation of the ADA constitutes a violation of California's Disabled Person
Act, California Civil Code §51(c).

23 20. ACCESS must comply with Title VI of the Civil Rights Act of 1964. As a
24 recipient of federal financial assistance, Defendants are subject to Title VI of the Civil Rights
25 Act of 1964 (“Title VI”). Moreover, to the extent that ACCESS hired a contractor to perform
26 or deliver services directly or through contractual or other arrangements Access is liable under

1 Title VI for their acts, including those of defendant GPI under 28 C.F.R. §42.104(b)(1) and (2).

2 21. Section 504 of the Rehabilitation Act of 1973 and the Civil Rights Restoration Act
3 of 1987 also afford protection.

4 22. Title II prohibits discrimination and provides the full panoply of remedies for,
5 among other things, intentional discrimination based on disability; Title III of the ADA,
6 provides that ACCESS must prohibit discrimination against the disabled in the full and equal
7 enjoyment of public accommodations. 42 U.S.C. §12182(a) .

8 23. 42 U.S.C. §12184(a) prohibits discrimination by a private entity that provides
9 "specified public transportation services."

10 24. As to transportation services, the statutes are implemented by, among others,
11 regulations 49 C.F.R. §27.1 and §27.7 which provides that those receiving federal financial
12 assistance may not discriminate.

13 25. As to transportation services, 49 C.F.R. §§37.121 to 37.155, regulates
14 transportation services for Individuals with Disabilities.

15 26. ACCESS is a federal funding recipient and is a state mandated local public agency
16 created by Los Angeles County as a public transit agency to administer and manage the delivery
17 of complementary ADA paratransit service and to coordinate human service transportation
18 agencies under the CTSA; it must comply with Title VI of the Civil Rights Act of 1964. It is
19 the CTSA for Los Angeles County's 43 public fixed route operators and various rail
20 transportation entities.

21 27. Under 42 U.S.C. §12132 and 29 U.S.C. §794, it is discriminatory to fail to provide
22 disabled individuals "a level of service which is comparable to the level designated public
23 transportation services provides to individuals without disabilities using such system."

24 28. Plaintiff has a private cause of action for damages under Title VI of the Civil Right
25 act of 1964 and a private cause of action for damages under the ADA, Title II and Title III.

26 29. The Fourteenth Amendment to the United States Constitution provides, in

1 pertinent part, that no State shall “deny to any person within its jurisdiction the equal protection
 2 of the laws.” U.S. Const., Amendment XIV, Section 1. Plaintiff alleges that she has been
 3 denied equal protection; among other things she is denied the higher duty of care afforded paying
 4 patrons of public transportation when riding ACCESS paratransit. Neither a compelling state
 5 interest nor a rational basis for such denial exists.

6 30. 42 U.S.C. §1983 protects against acts by government under color of state law.
 7 ACCESS is a governmental entity claiming that it does not have common carrier duties of
 8 utmost care. ACCESS, while acting under color of state law, deprived Plaintiff of a federal right
 9 to equal protection by implementation of a policy, statement, decision officially adopted and
 10 promulgated by that body’s officers and/or the result of the entity’s custom or policy which
 11 is/was the driving force behind the deprivations of equal protection and with the remedies,
 12 procedures, and rights set forth in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.
 13 §794a) which provides remedies, procedures, and rights provided to any person alleging
 14 discrimination on the basis of disability in violation of Section 202, 42 U.S.C §12133.

15 31. ACCESS, on January 4, 2016, alleged in its Answer in the litigation generally
 16 entitled Lynch v. Access, Case Number BC574568 and now pending in the Los Angeles
 17 Superior Court, that it was not a common carrier. No cause of action for violation of the ADA,
 18 Title VI, 42 U.S.C. §1983 or Equal Protection has been pled. The issue of common carrier status
 19 is to be heard in a Motion for Summary Adjudication on April 8, 2016 wherein the State court
 20 will decide if common carrier status does or does not exist for Plaintiff. Issue of monetary
 21 damages arising from civil rights violations as set forth herein are not sought in the State Court
 22 proceeding and this action has been filed with one of the avowed purposes to avoid the running
 23 of any statute of limitations.

24 32. Plaintiff further asserts that she has, under Title II of the ADA, a private right of
 25 actions routinely found by the courts. Wesinreich v. Los Angeles County Metro. Transportation
 26 Authority 114 F.3d 976 (9th Cir 1997).

1 33. Under 49 C.F.R. Section 37.121(a), the U.S. Department of Transportation
2 requires that each public entity operating fixed route system shall provide paratransit or other
3 special service to individuals with disabilities that is comparable to the level of service provided
4 individuals without disabilities who use fixed route systems.

5 34. Under California law those providing public transportation for hire are common
6 carriers. See California Civil Code §2100 and Civil Code §2168; Gomez v. Superior Court
7 (2011) 35 Cal.4th 1125. ACCESS alleges that the disabled and aged are not members of the
8 general public and thus they have no common carrier duties running to the Plaintiff; their duty
9 runs to only those certified for transport and further that the duty owed is not the highest duty
10 of care.

11 35. As to the State of California's law, California Government Code §15975 provides
12 in part that an entity formed by the "regional transportation authority as a nonprofit public
13 benefit corporation shall be designated as the consolidated transportation service agency . . ."

PRELIMINARY STATEMENT

17 36. On November 4, 2014 plaintiff, LYNCH, boarded an ACCESS vehicle as a payee
18 seeking transportation for hire. ACCESS was providing paratransit services to LYNCH who had
19 previously been certified as disabled . ACCESS had recorded, as part of their certification
20 process, the fact that LYNCH has pre-existing problems including knee surgery, low back
21 problems, the need for a cane, walked with a shortened gait, had varicose veins, and a history
22 of mental issues described only as depression and treatment by both a psychiatrist and
23 psychologist.

24 37. When boarding she was not given assistance. As a result thereof, she fell injuring
25 herself. ACCESS alleges that the only duty of care they owe to the Plaintiff is one of simple
26 negligence. Plaintiff avers that she is at risk of losing her case without a common carrier duty

1 of highest care running to her during the events of November 4, 2014.

2 38 In this action she seeks a private right of damages under 43 U.S.C. §1983 and the
3 equal protection clause of the U.S. Constitution set forth in the 14th Amendment.

4 39. Then too, she seeks a private right of action under Title VI of the Civil Rights Act
5 of 1964, the Rehabilitation Act of 1973, and Title II and III of the ADA.

6 40. Further she seeks declaratory relief on the issue of whether or not she is entitled
7 to the greater protections afforded by a determination that ACCESS is a common carrier to wit
8 that ACCESS must afford LYNCH a higher standard of care.

9 41. ACCESS and GPI allege to the contrary and in that allegation frame the issues
10 for declaratory relief.

11 42. Additionally, LYNCH seeks an injunction prohibiting ACCESS from claiming
12 a lower standard of care for their disabled patrons than that afforded those patrons riding other
13 forms of public transportation.

14 43. As to GPI, it is alleged to be a private company providing myriad services
15 including the drivers, the Vans, the accounting, the insurance and other forms of benefits.
16 Plaintiff alleges that they are equally liable and that GPI has violated provisions of the various
17 statutes and regulations set forth above albeit they are a private company under contract to a
18 governmental entity.

19 44. At all time material, ACCESS was receiving federal funds.

20 45. ACCESS, in its role as the CTSA coordinates paratransit services and knows that
21 it is a public transportation provider for hire and that it serves the aged and disabled, among
22 others. As such, its claim to a lower standard of care than all others in its association is against
23 the law and intentional denying the hundreds of people injured on ACCESS vehicles over the
24 years the legal standard of the highest duty of care.

25 46. Plaintiff alleges that the foreseeability of injury to the aged and disabled is high,
26 there is a degree of certainty that the plaintiff suffered injury, there is a closeness of the

1 connection between the defendants' conduct and the injury suffered (LYNCH was injured in an
2 ACCESS vehicle), that moral blame attached to the defendants' conduct, that considerations of
3 public policy community standards compel imposition of higher standards of care to the
4 disabled, that insurance is prevalent and easily provided to all manner of public transportation
5 entities thus satisfying all elements of any duty analysis.

6 47. Given the protections afforded by the ADA, Titles II and III, Section 504 of the
7 Rehabilitation Act of 1973 (29 U.S.C. §794a), the remedies, procedures, and rights provided
8 to any person alleging discrimination on the basis of disability in violation of Section 202, 42
9 U.S.C. §12133, are available to the plaintiff as she is a member of a class protected by such
10 statutes.

11 48. The ADA provides that no person "shall be excluded from participation in or be
12 denied benefits of the services programs or activities of a public entity or be subjected to
13 discrimination by such an entity. 42 U.S.C. §120132. Plaintiff alleges that she is aged and
14 disabled and should be afforded the protections; she is being discriminated against by ACCESS
15 and GPI and being denied benefits and services that the higher standard of care imposed on
16 common carriers provides.

17 49. Plaintiff seeks an injunction requiring Defendants, and each of them, to
18 immediately declare themselves common carriers with the requisite duties imposed on them
19 under California law and extending protections to Plaintiff and all paratransit riders. Plaintiff
20 also seeks individual damages for the discrimination and harm she has suffered.

21 50. Plaintiff seeks general damages arising out of ACCESS' and GPI's violation of
22 her civil rights including the intentional and deliberate indifference to the needs of the elderly
23 and disabled. The denial of the common carrier highest standard of care has proximately caused
24 emotional distress and psychological damage in addition to the damages arising from her injuries
25 in the fall on November 4, 2014.

26 51. Defendants continue to refuse and fail to acknowledge that they are common
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1 carriers. Defendants' refusal and failure to identify ACCESS and GPI as common carriers have
2 left Plaintiff feeling humiliated, emotionally distraught, and discriminated against because of her
3 age and disabilities. Because of Defendants' failure to acknowledge that ACCESS and GPI are
4 common carriers, Plaintiff remains concerned about further use of paratransit services provided
5 by Defendants should circumstances force her to litigate any future action for injuries and
6 damages against Defendants.

7 52. To the extend permitted by law she seeks attorney fees and costs

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JURY DEMAND

10 53. Plaintiff demands trial by jury in this action on every one of her claims.

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FIRST CLAIM FOR RELIEF

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(Declaratory Relief)

15 54. Plaintiff repeats and realleges the above paragraphs.

16 55. This claim for relief is brought against each and every Defendant.

17 56. Plaintiff, LYNCH, alleges that ACCESS and GPI are duty bound under the law
18 to provide common carrier duties of utmost care. Defendants assert they are not so bound.
19 Plaintiff believes that a declaratory judgment will terminate the controversy involving an issue
20 of law on relatively undisputed facts that involves a right, duty, power, or liability which may
21 be declared and that the court may order a speedy hearing of a declaratory judgment as set forth
22 in FRCP 57.

23 57. Plaintiff seeks this court's judgment that ACCESS and GPI are common carriers
24 and/or held to the common carrier duty of highest care pursuant to the authority to so rule under
25 declaratory and injunctive relief are sought under 28 U.S.C. §§2201-02, 42 U.S.C. §12133, 29
26 U.S.C. §794a.

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SECOND CLAIM FOR RELIEF

(Title II, the ADA, 42 U.S.C. §12133, 42 U.S.C. §§12143 and 12144, 29 U.S.C. §794a)

58. Plaintiff has impairments that substantially limit one or more major life activities and is a qualified individual with disabilities within the meaning of 42 U.S.C. §12131(2). She is qualified to apply for and/or receive ADA paratransit services. Title II prohibits discrimination under Part A-Prohibition Against Discrimination (12131 to 12134) and Part B-Public Transportation (12141 to 12165).

59. ACCESS and GPI provide paratransit and other special transportation services to individuals with disabilities pursuant to 42 U.S.C. §12143(a)(1). Further, as required by law the service offered must be “comparable to the level of designated public transportation services provided to individuals without disabilities using such [fixed route] systems.”

60. In excess of 43 fixed route transportation systems in the Los Angeles Basin have joined to provide a CTSA of which ACCESS is the lead entity.

61. ACCESS certified LYNCH as an eligible rider and, by that certification, alleges that their certification the disabled riders are not members of the general public to which they owe a duty of utmost care.

62. ACCESS and GPI, in their refusal to identify themselves as common carriers, and to adopt the duty of utmost care discriminate against Plaintiff by denying or significantly limiting her ability to redress her grievances against said Defendants in civil actions and/or claims for injuries and damages. Plaintiffs or claimants who, under other public transportation systems providing fixed route systems, enjoy greater ability to redress their grievances, are denied that same right when on ACCESS routes.

63. Through its policy and practice of denying their common carrier status, Defendants are engaging in an operational pattern or practice that significantly limits the liability of complementary paratransit service to ADA paratransit eligible individuals. This constraint constitutes disability discrimination under the ADA

64. Defendants' paratransit system provided by ACCESS and GPI is not comparable to MTA's or other fixed route providers.

65. Defendants' violations constitute continuing violations of law.

66. Plaintiff is entitled to injunctive relief and damages, to wit, any appropriate relief, in an amount to be determined by the Court.

THIRD CLAIM FOR RELIEF

(Section 504 of the Rehabilitation Act of 1973)

67. Plaintiff repeats and realleges the above paragraphs.

10 68. This claim for relief is brought against each and every Defendant. As to GPI it
11 is a direct recipient and/or indirect recipient of federal funds and it either directly or through
12 contractual arrangements performs a program function of the recipient, ACCESS.

13 69. Plaintiff, LYNCH, has impairments that substantially limit one or more major life
14 activities. Under section 504 of the Rehabilitation Act of 1973 discrimination on the basis of
15 disability is prohibited.

16 70. Plaintiff, LYNCH, is an individual with disabilities within the meaning of 29
17 U.S.C. §705(20). She is qualified to apply for and/or receive ADA paratransit services. And,
18 in fact, was certified to use ACCESS paratransit services.

19 71. Section 504 provides: "No otherwise qualified individual with a disability in the
20 United States . . . shall, solely by reason of her or his disability, be excluded from the
21 participation in, be denied the benefits of, or be subjected to discrimination under any program
22 or activity receiving Federal financial assistance." 29 U.S.C. §794.

23 72. Defendants' paratransit system is a program or activity receiving federal financial
24 assistance and is therefore subject to Section 504 of the Rehabilitation of Act of 1973.

73. Recipients of federal financial assistance "shall comply with all applicable requirements of the [ADA] including the Department of Transportation's ADA regulations (49

1 C.F.R. parts 37 and 38) Compliance with all these regulations is a condition of receiving
2 Federal financial assistance from the Department of Transportation.” 49 C.F.R. §27.19.

3 74. Defendants' policy and practice of refusing and failing to identify ACCESS and
4 GPI as common carriers discriminates against Plaintiffs by denying or significantly limiting the
5 services provided to the elderly and disabled who use paratransit services in violation of the
6 ADA's paratransit requirements. Defendants' failure to comply with the paratransit
7 requirements under ADA, Title II, constitutes a violation of their obligations under Section 504
8 of the Rehabilitation Act of 1973 as recipients of federal financial assistance.

9 75. Defendants' actions prevent a Plaintiff, elderly and with disabilities, from having
10 equal protection under the law with regard to public transportation.

11 76. Defendants' violations constitute continuing violations of law.

12 77. Plaintiff is entitled to injunctive relief and damages, to wit, any appropriate relief,
13 in an amount to be determined by the court as well as attorney fees under 29 U.S.C. §794b.

FOURTH CLAIM FOR RELIEF

(Title VI of the Civil Rights Act of 1964)

17 78. Plaintiff repeats and realleges the above paragraphs.

18 79. This claim for relief is brought against each and every Defendant.

19 80. Plaintiff is elderly, disabled, black and from Trinidad and asserts that the defendant
20 acted discriminatorily in part because of her race, color and national origin.

21 81. Defendants' operates a paratransit program or service that receives Federal
22 financial assistance. Title VI prohibit discrimination on the basis of race, color, or national
23 origin in programs and activities receiving Federal financial Assistance. 42 U.S.C. §2000d.

24 82. Defendants have been on clear notice of their obligation to identify ACCESS and
25 GPI as common carriers. Plaintiff believes that there was a departure from standard procedures,
26 minutes of meetings wherein the issue of common carrier duties was discussed, statements by

1 decision makers regarding the higher standard of care, a post Gomez v. Superior Court [(2005)
2 35 Cal.4th 1125] analysis of common carrier status and that the continued claim to a lower
3 standard of care has a substantial disparate impact on a protected group riding paratransit
4 transportation provided by defendants. Further , Defendants have engaged in a deliberate policy
5 and practice of denying that ACCESS and GPI are common carriers in civil actions prosecuted
6 against them by paratransit riders for their injuries and damages. Plaintiff alleges that
7 Defendants cannot articulate a substantial legitimate justification for such action.

8 83. Defendants have done so knowing that the California Civil Code §§2100 and 2168
9 along with the California Supreme Court's ruling in Gomez v. Superior Court (2005) 35 Cal.4th
10 1125 establish the elements of common carrier status that apply to ACCESS and GPI.

11 84. Defendants' policy and practice of refusing to identify ACCESS and GPI as
12 common carriers intentionally discriminates against Plaintiff by denying her meaningful equal
13 protection under the laws with respect to Defendants' paratransit program or service in violation
14 of Title VI of the Civil Rights Act of 1964.

15 85. Defendants' violations constitute continuing violations of law.

16 86. Plaintiff is entitled to injunctive relief and damages in an amount to be determined
17 by the court.

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19 **FIFTH CLAIM FOR RELIEF**

20 **(42 U.S.C. §1983 violations and equal protection under
21 14th Amendment to the US Constitution)**

22 87. Plaintiff repeats and realleges the above paragraphs.

23 88. This claim for relief is brought against each and every Defendant.

24 89. 42 U.S.C. §1983 protects against acts by government under color of state law.
25 Access is a governmental entity claiming that it does not have common carrier duties of utmost
26 care. ACCESS, and GPI while acting under color of state law, deprived plaintiff of a federal
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1 right to equal protection including the right to a higher standard of care imposed upon common
2 carriers. To the extent that the higher standard of care is extended to those with disabilities and
3 a right to be free of discrimination on the basis of disability under Title II and Title III of the
4 ADA with the remedies, procedures and rights set forth in Section 505 of the Rehabilitation Act
5 of 1973 (29 U.S.C. §794a) which provides remedies, procedures, and rights that protect any
6 person alleging discrimination on the basis of disability in violation of section 202, 42 U.S.C.
7 §12133 then such rights are implicated and protected under the equal protection clause.

8 90. On January 4, 2016, ACCESS alleged in its Answer in the litigation generally
9 entitled Lynch v. Access, BC 574568 and now pending in the Los Angeles Superior Court, that
10 it was not a common carrier.

11 91. Defendants' policy and practice of refusing to identify ACCESS and GPI as
12 common carriers intentionally discriminates against Plaintiff by denying her meaningful equal
13 protection under the laws with respect to Defendants' paratransit program or service under the
14 ADA and in violation of Title VI of the Civil Rights Act of 1964. The continuing claims of no
15 common carrier duties evidences an intent to disadvantage all members of a class that includes
16 plaintiff.

17 92. Defendants' violations constitute continuing violations of law.

18 93. Plaintiff is entitled to injunctive relief and damages in an amount to be determined
19 by the court as well as attorneys fees under 42 U.S.C. §1988.

21 **SIXTH CLAIM FOR RELIEF**

22 **(Title III, [local government] the ADA, 42 U.S.C. §12101, 28 C.F.R. part 35, et seq.**

23 **29 U.S.C. §701)**

24 94. Plaintiff repeats and realleges the above paragraphs.

25 95. This claim for relief is brought against each and every Defendant.

26 96. To the extent that the claims against ACCESS and GPI are not governed by Title

1 II of the ADA because they are a public transportation service, Plaintiff alleges that defendants
2 are engage in discrimination in their services, programs and activities when alleging in judicial
3 proceedings that they are not common carriers and, thus, she is protected by Title III.

4 97. Plaintiff is an individual with a disability under the ADA, Title II, and is otherwise
5 qualified to receive the benefits of ACCESS' and GPI'S services, program, and activities that
6 they are to provide. She has been approved/certified as disabled by ACCESS and GPI.

7 98. Plaintiff meets the requirements of the ACCESS and GPI and she has been denied
8 the benefits of Defendants' services, programs, and activities or was otherwise discriminated
9 against by ACCESS and GPI solely by reason of her disability.

10 99. Defendants' violations constitute continuing violations of law.

11 100. Plaintiff is entitled to injunctive relief and damages in an amount to be determined
12 by the court

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14 **SEVENTH CLAIM FOR RELIEF**

15 **(Injunctive relief)**

16 101. The declaratory and injunctive relief sought is authorized by 28 U.S.C. §§2201 and
17 2202, 42 U.S.C. §1983, Rule 57 of the Federal Rules of Civil Procedure, 42 U.S.C. §12133, and
18 29 U.S.C. §794a.

19 102. Plaintiff seeks an injunction preventing ACCESS and GPI from asserting that they
20 are not common carriers with the attendant higher duty of care running to the disabled and
21 elderly who use ACCESS paratransit services.

22 103. Further, Plaintiff seeks a finding of this court that ACCESS and GPI are common
23 carriers and that to deny they are is a denial of equal protection and is violative of 42 U.S.C.
24 §1983, Title II and Title III of the ADA, and Section 504 of the Rehabilitation Act of 1973.

25 104. Plaintiff seeks further order of this court mandating that ACCESS and GPI no
26 longer assert in any civil litigation that they are not a common carrier.

105. As to the civil litigation now pending in the Los Angeles Superior Court Plaintiff seek a stay as ordered by this court.

WHEREFORE, the Plaintiffs respectfully request that the Court:

106. Assume jurisdiction over this matter;

107. Declare that the Defendants' actions violate Plaintiff's rights under Title II of the Americans with Disabilities Act, 42 U.S.C. §12131 *et seq.*, and regulations promulgated thereunder;

108. Declare that the Defendants' actions violate Plaintiff's rights under Title III of the Americans with Disabilities Act, and regulations promulgated thereunder;

109. Declare that the Defendants' actions violate Plaintiff's rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 *et seq.*, and regulations promulgated thereunder;

110. Declare that the Defendants' actions violate Plaintiff's rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, *et seq.*, and regulations promulgated thereunder;

111. Declare that the Defendants' actions violate Plaintiff's rights under the 42 U.S.C. §1983 and her constitutional protections to equal protection under the United States Constitutions , 14th Amendment..

112. Enjoin further violations of Plaintiff's statutory rights, including but not limited to an injunction that requires Defendants to:

- a) identify that ACCESS and GPI are common carriers;
- b) Create a written notice of their common carrier status and post it on ACCESS and GPI vehicles, at Defendants' offices, assessment centers, and on correspondence sent from Defendants;

113. Stay the proceedings in the Los Angeles Superior, Lynch v. Access, BC574568, pending this court's ruling;

